

MOTION BY SUPERVISOR MICHAEL D. ANTONOVICH

July 5, 2005

Kelo v. City of New London

Last week, the United States Supreme Court issued a 5-4 decision that expands the use of eminent domain proceedings beyond the taking of private property for "public use." The decision in *Kelo v. City of New London* allows local governments to take private property when the sole purpose is economic development, irrespective of whether or not the subject property is in any way blighted or economically disadvantaged.

Because California law requires additional findings of blight for eminent domain proceedings, the decision may embolden a city or developer to claim that the Court's decision supersedes California law.

Among the diverse coalition supporting the property owners in the case, were the NAACP, the AARP, the National Taxpayers Union and the Southern Christian Leadership Conference.

In her dissent, Justice Sandra Day O'Connor wrote that this was a case of "reverse Robin Hood" – "take from the poor, give to the rich." She said, "beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms."

Justice Clarence Thomas labeled the decision "a government land grab" that will be used against "politically weak communities with high concentrations of minorities and elderly."

Eminent domain should be used both sparingly and judiciously, as the government's seizure of an individual's property is a serious matter, one that has a tremendous potential for hardship on the property-owner. While the taking of private property for a road, library, school or other infrastructure that is needed for the common good has

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obvious public benefits, the public benefit of taking of private property solely in the name of "economic development" is wrong.

The court's decision is of greater concern given the wide publicity surrounding abuses of eminent domain authority by cities and counties throughout the country.

I, THEREFORE, MOVE that the Board of Supervisors direct the County Counsel and Chief Administrative Officer to:

- Review the Kelo decision to determine if legislation is required at the Federal and/or State level to protect the rights of private property-owners.
- Research the impact of the Kelo decision on eminent domain proceedings in cities and counties in California.
- Determine if a County Charter amendment can be made to protect property owners.

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MDA:pn/tb